

ORIGINAL(49)
6-18-0
JNIN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

PHAN HUE

: CIVIL ACTION

FILED
HARRISBURG, PA

V.

: NO.: 1:01-CV-1064

JUN 17 2002

JAMES UPDIKE, P.A., JOSEPH
MATALONI, EDWARD O'BRIAN
and DALE HAZLAK: (Judge Kane)
Magistrate Judge SmyserMARY E. D'ANDREA CLERK
Per *[Signature]* Deputy ClerkMOTION OF DEFENDANT, JAMES UPDYKE, P.A. TO COMPEL
THE DEPOSITION OF PHAN HUE

1. Phan Hue ("Hue") has filed an action against James Updyke, P.A. ("Updyke") ("Updyke") contending that he violated the constitutional rights of Hue.
2. Hue is currently confined as a prisoner in S.C.I. Retreat.
3. Updyke in an attempt to defend himself needs to take the deposition of Hue.
4. Federal Rule of Civil Procedure 30(a) states that:

The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

5. Updyke asks the Court to permit the deposition of Hue to be taken at S.C.I. Retreat where Hue resides as an inmate within thirty days of the Court's order. This provides sufficient time for counsel for Updyke, counsel for the codefendants and the Warden of the S.C.I. Retreat to agree on a date mutually convenient for all involved.

6. This also provides for the deposition of Hue at a date early enough in the litigation to permit everyone to prepare for trial or to be in the position to file any dispositive motions.

7. Without taking the deposition of Hue, Updyke lacks the ability to prepare adequately for trial or to determine the appropriateness of a motion for summary judgment.

WHEREFORE, defendant, James Updyke, P.A. respectfully requests that his motion to compel the deposition of Phan Hue be granted.

GOLD, BUTKOVITZ & ROBINS, P.C.

BY: 

ALAN S. GOLD
Attorney for Defendant,
James Updyke, P.A.

Atty. ID. No. 23400
7837 Old York Road
Elkins Park, PA 19027
(215)635-2000